IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3581 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANSA NAGAR PANCHAYAT

Versus

PRESIDENT,THACHRAJ CO. OP. HOUSING SOCIETY

Appearance:

MR UM PANCHAL FOR MR DD VYAS for Petitioner

MR NILESH A PANDYA for Respondent No. 1

MR HH PATEL, APP for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/01/2001

ORAL JUDGEMENT

Mr.Panchal states that this matter pertains to the year 1985-86 and it relates to the levy of property tax by the petitioner and this petition be dismissed but liberty may be granted to the petitioner to proceed in the matter for

the subsequent assessment years in accordance with law.

In taxation matters, the decision given for one assessment year may not be res-judicata or binding for the subsequent assessment year. In each assessment year, the matter has to be decided in accordance with the facts and law as prevailing. Here what I find that the society alone has objected this demand of tax. Individual members who are the owners of the houses have not objected. It further transpires that the District Panchayat has taken decision that unless all the houses are constrcuted on the land which are allotted to the members by the society, no property tax can be levied. This approach seems to be prim-face not correct. After lapse of time, there are all the possibilities that the hosues would have been constructed. The petitioner is free to take the decision for the subsequent assessment years after giving notice to the holders of the plots. With these observations, this petition is dismissed. Rule discharged. Interim relief, if any earlier granted stands vacated. No order as to costs.

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(sunil)